



LAKE PARK TOWN HALL NATIONAL HISTORIC SITE

"Jewel" of the Palm Beaches

The Town of Lake Park

Community Development Department

TOWN OF LAKE PARK SPECIAL MAGISTRATE HEARING MINUTES

June 1, 2006

10:00 A.M.

COMMISSION CHAMBERS

I. CALL TO ORDER:

10:00 a.m.

II. PLEDGE OF ALLEGIANCE:

III. ROLL CALL:

Leonard Rubin, Magistrate	Present
Karen Roselli, Town Attorney	Present
Gregory Durgin, Code Compliance Officer	Present
David Caban, Code Compliance Officer	Present
Jessica Shepherd, Deputy Town Clerk	Present
Patrick Sullivan, Director of Community Development	Present
Kimberly Rowley, Administrative Secretary	Present

IV. SWEARING IN OF ALL WITNESSES:

Members of the audience and staff members who wished to testify were sworn in by the Magistrate, Leonard Rubin.

David Caban, Code Compliance Officer, informed the Magistrate that the meeting would begin with No. 11 on the Agenda; Case No. 0610115, as follows:

11) Case No:

06-10115

Code Compliance Officer

David Caban

Respondent:

Earl D. Stewart, LLC

Stewart Toyota

1215 No. Federal Highway

Lake Park, FL 33403

Location of Violation:

1215 No. Federal Highway
PCN: 36-43-42-21-27-000-0000

Code Sections Violated:

13-3 Occupational License
32-86© Prohibited storage
32-86(1)(2)(3) Non-Accessory use, Parking of Dealership vehicles

Description of Violation:

No occupational license.
Prohibited storage/parking of dealership vehicles.

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated **5/08/2006** and to approve the recommendation to achieve compliance by **7/06/2006** and failing which, a fine of \$250.00 a day shall accrue and to pay costs in the amount of **\$146.00** by the date set for compliance.

David Caban, Code Compliance Officer, presented the Case to the Magistrate. The Palm Beach County Property Appraiser's Office indicates that Earl Stewart, LLC is the owner of the property located at 1215 North. Federal Highway, Journey's Inn. An initial inspection of the property was made on May 8, 2006, noting three Code violations, and upon re-inspection on May 30 and May 31, 2006, observing the code violations still existed. Mr. Caban recommended that the Respondent be ordered to pay Administrative Costs in the amount of \$146.00 and to come into compliance by no later than July 6, 2006. Failure to comply by July 6, will result in fines of \$250 per day, per fine accruing for each day that they fail to achieve compliance.

Mr. Caban explained that Stewart Toyota body work is being performed in the parking lot area of the Journey's Inn which is a code violation at that site and additionally, that there is no occupational license issued for that type of work at Journey's End. Mr. Caban presented photographs as evidence and indicated that Rick Sapir, Attorney Representative for Earl Stewart LLC was in attendance.

Attorney Richard Sapir addressed the Magistrate. Mr. Sapir explained that Earl Stewart LLC acquired the Journey's Inn property approximately one year ago with the intention of expanding the Toyota dealership onto the property. Earl Stewart is ready to proceed with the plans to expand but is being delayed because the Town of Lake Park's Comprehensive Plan was rejected by the DCA, which requires a response from the Town. Until the DCA receives a response from the Town, the Town cannot accept a land-use change application which is therefore preventing Earl Stewart LLC from moving forward with their expansion plans. Attorney Sapir indicated that due to the successful nature of the automobile dealership, it has been awarded with an abundance of automobiles, resulting in an overflow situation. Mr. Sapir indicated that the code violations cited are just technical matters, not health or safety related, and requested that the Town cooperate with Earl Stewart until the Comprehensive Plan situation is rectified. Mr. Sapir further indicated that Earl

Stewart Toyota has made other arrangements by renting a lot in Riviera Beach at which to store its overflow vehicles.

Karen Roselli, Town Attorney discussed that this has been an ongoing matter with Earl Stewart LLC and that these violations have been addressed for the past two to three years by Greg Durgin, Code Compliance Officer. David Caban, Code Officer, emphasized that the violation also create and traffic and safety issue. Greg Durgin, Code Officer, stated that overflow vehicles are being parked on Palmetto Road and Kalmia Drive, which is an ongoing problem.

FINDING: The Magistrate indicated to Mr. Sapir that storing vehicles and performing body work on vehicles on the Journey's Inn property is in violation of Town Code and he does not have the authority to allow Earl Stewart the right to store vehicles at the Journey's Inn property throughout the land-use change approval process. Based upon evidence and testimony, the Magistrate found the Respondent in violation of Code and ordered compliance by no later July 6, 2006, and additionally ordered Administrative Costs in the amount of \$146.00 payable by compliance date.

V. ABATEMENT HEARINGS (3)

1) **Case No.:**

04-00465 - 00466

Code Compliance Officer:

Gregory S Durgin

Respondent:

Property Owner: Lake Park Square Joint Venture, R/A Joseph Carosella

Tenant: Lowe's Home Improvement Centers, Officer: Larry D Stone

Violation Location:

401 Congress Ave.

Code Section Violated:

30-5, Outdoor storage on commercial sites.

32-27 (a) Offensive, etc., uses; conflicts with town boundaries.

Description of Violations:

Storage/display of goods, etc..

Visually offensive, eyesore to neighboring properties.

Magistrate Hearing/Ordered Entered: 07/01/04

9/16/ 04, **Order Granting Extension of Time for Compliance for:** 11/29/04

Affidavit of Non-Compliance: 11/29/04

Lien Recorded: 12/13/04

Affidavit of Compliance: 3/03/06

Penalty: \$250.00 a day for 459 days: \$ 114,750.00

Interest: 10% \$ 11,475.00

Administrative cost: 06/01/06: \$ 146.25

Total: \$ 126,371.25

Gregory S. Durgin, Code Compliance Officer, reviewed the case and indicated that there has been 4 months in which Lowe's was not in compliance but they did construct a bullpen in May of 2005 for the outdoor storage of materials. The violations existed for 459 days after the ordered compliance date resulting in fines totaling \$126,371.25 which includes interest and administrative costs.

Elle Halperin, local Counsel for Lowe's, was present and requested fine abatement. Diane Weibert, Palm Beach County Fire-Rescue Fire Inspector, testified that the storage of combustible materials at Lowe's was a life/safety issue as there were combustible materials.

FINDING: Based upon the evidence and the testimony given, the Magistrate reduced the recommended fine amount by 25% to \$73,347.75 payable by June 19, 2006.

2) Case No.:

05-01761

Code Compliance Officer:

Gregory S Durgin

Respondent:

Property Owner: Lake Park Square Joint Venture, R/A Joseph Carosella

Tenant: Lowe's Home Improvement Centers, Officer: Larry D Stone

Violation Location:

401 Congress Ave.

Code Section Violated:

32-147. (e) (1)(2)(3) Minimum landscape maintenance standards.

16-2 (2) Litter/trash.

Description of Violations:

Dead, dying trees.

Litter and trash throughout the property.

Magistrate Hearing/Ordered Entered: 12/01/05

Affidavit of Compliance: 12/13/05, Litter/trash

Affidavit of Non-Compliance: 01/03/06, Minimum landscape maintenance.

Affidavit of Compliance: 03/03/06, Minimum landscape maintenance.

Lien Recorded: 02/03/06

Penalty: \$150.00 a day for 59 days: \$ 8,850.00

Interest: 10% \$ 885.00

Administrative cost: 06/01/06: \$ 138.75

Total: \$ 9, 873.75

Gregory Durgin, Code Compliance Officer, reviewed the Case and explained that due to a shortage of landscaping materials after the hurricane, he was recommending a reduction in fines/costs to the total amount of \$1203.75.

FINDING: The Magistrate agreed to reduce the fines/costs to \$1203.75 payable by June 19, 2006.

3) Case No.:

05-01923

Code Compliance Officer:

Gregory S Durgin

Respondent:

Property Owner: Lake Park Square Joint Venture, R/A Joseph Carosella

Tenant: Lowe's Home Improvement Centers, Officer: Larry D Stone

Violation Location:

401 Congress Ave.

Code Section Violated:

30-5. Outdoor storage on commercial sites.

32-27 (a) Offensive, etc., uses; conflicts with town boundaries.

Description of Violations:

Storage bin

Visually offensive, eyesore to neighboring properties.

Magistrate Hearing/Order Finding Violation/Order Imposing Fine: 02/02/06

Lien Recorded: 02/20/06

Affidavit of Compliance: 3/03/06

Penalty: \$500.00 a day for 106 days: \$ 53,000.00

Interest: 10% \$ 5,300.00

Administrative cost: 06/01/06: \$ 135.75

Total: \$ 58,435.75

Gregory Durgin, Code Compliance Officer, reviewed the Case and indicated that this is a repeat container violation. Mr. Durgin recommended reducing the fines/costs to a total amount of \$2,785.75.

Elle Helperin, local Counsel for Lowe's, requested that the Magistrate reduce the fines/costs to 5% + administrative costs.

FINDING: The Magistrate agreed to reduce the fine/costs to \$2785.75 payable by June 19, 2006.

VI. VIOLATION CASES

4) Case No:

06-00587

Code Compliance Officer

Gregory Durgin

Respondent:

Linda R. Klimeika
428 Greenbriar Drive
Lake Park, FL 33403

Location of Violation:

356 Flagler Boulevard
PCN: 36-43-42-20-02-107-0150

Code Sections Violated:

7-102©(1)(2) Roofs: Damaged roofing, fascia, eaves, soffit

Description of Violation:

Damaged roof

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated 3/21/06 and to approve the recommendation to achieve compliance by **7/03/06** and failing which, a fine of \$100.00 a day shall accrue and to pay costs in the amount of **\$132.75** by the date set for compliance.

Greg Durgin, Code Compliance Officer, presented this case to the Magistrate. Mr. Durgin requested that the administrative costs be waived if compliance is achieved by July 3, 2006, because this is a hurricane related violation

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent in violation and compliance was ordered by July 3, 2006, failing which a fine of \$100.00 per day shall accrue and to pay administrative costs in the amount of \$132.75, with the understanding that if the property owner complies prior to compliance date the Town will waive its administrative costs.

5) Case No:

06-00577

Code Compliance Officer

Gregory Durgin

Respondent:

Donald Yates
427 Flagler Boulevard
Lake Park, FL 33403

Location of Violation:

427 Flagler Boulevard
PCN: 36-43-42-20-01-102-0561

Code Sections Violated:

7-102©(1)(2) Roofs; Damaged roofing, fascia, eaves, soffit

Description of Violation:

Damaged roof

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated 3/16/06 and to approve the recommendation to achieve compliance by **8/07/06** and failing which, a fine of \$100.00 a day shall accrue and to pay costs in the amount of **\$134.25** by the date set for compliance.

Greg Durgin, Code Compliance Officer, presented this case to the Magistrate. Mr. Durgin explained that he has given the property owner extra time because the entire roof needs to be replaced.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent in violation and compliance was ordered by August 7, 2006, failing which a fine of \$100.00 per day shall accrue and to pay administrative costs in the amount of \$134.25

6) Case No:

06-00719

Code Compliance Officer

Gregory Durgin

Respondent:

Donnini Enterprises, Inc.

c/o Gerald Donnini

9250-H Alternate A1A

Lake Park, FL 33403

Location of Violation:

774 Northlake Boulevard

PCN: 36-43-42-20-03-125-0300

Code Sections Violated:

7-104 (d) Care of premises, dead tree, tree trunks/stump

7-102 (N) Peeling, discolored, faded exterior

7-102©(1)(2) Roofs: Damaged roofing, fascia, eaves, soffit

Description of Violation:

Damaged roof south of car wash

Structure on south side of property in need of paint

Tree trunk

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated 4/17/06 and to approve the recommendation to achieve compliance by **7/24/06** and failing which, a fine of \$250.00 a day shall accrue and to pay costs in the amount of **\$135.75** by the date set for compliance.

Greg Durgin, Code Compliance Officer, presented this case to the Magistrate and photos were entered into evidence.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent was in violation and compliance was ordered on or before July 24, 2006, failing which a fine of \$250 per day, per fine shall accrue and to pay administrative costs in the amount of \$135.75 payable by the compliance date.

7) Case No:

06-00078

Code Compliance Officer

Gregory Durgin

Respondent:

Marie Lambert

439 Australian Circle

Lake Park FL 33403

Location of Violation:

439 Australian Circle

PCN: 36-43-42-20-01-103-0280

Code Sections Violated:

27-5 Maintenance standards for private swimming pools

Description of Violation:

Structural damage and inoperative swimming pool – submit permit application and obtain to repair or remove swimming pool

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated 1/20/2006 and to approve the recommendation to achieve compliance by 7/05/2006 and failing which, a fine of \$250.00 a day shall accrue and to pay costs in the amount of \$135.75 by the date set for compliance.

Greg Durgin, Code Compliance Officer, presented this case to the Magistrate and photos were entered into evidence. Mr. Durgin explained that he had previously met with the Respondent regarding this safety issue.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent was in violation and compliance was ordered on or before July 5, 2006, failing which a fine of \$250 per day shall accrue and to pay administrative costs in the amount of \$135.75 payable by the compliance date.

8) Case No:

05-01910

Code Compliance Officer

Gregory Durgin

Respondent:

William Uvanile

422 Crescent Drive

Lake Park, FL 33403

Location of Violation:

422 Crescent Drive

PCN: 36-43-42-20-01-103-0080

Code Sections Violated:

27-5. Swimming pool maintenance

27-45(a)(b)(c) Pool Fencing Required

7-104 (d) Care of premises

Description of Violation:

Unsanitary swimming pool

Incomplete fencing around swimming pool, incorrect gates

Trash on swale

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated **11/22/2005** and to approve the recommendation to achieve compliance by **7/05/2006** and failing which, a fine of \$250.00 a day shall accrue and to pay costs in the amount of **\$61.75** by the date set for compliance.

Greg Durgin, Code Compliance Officer, presented this case to the Magistrate and photos were entered into evidence. Mr. Durgin explained that he has met with the Respondent regarding this safety issue.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent was in violation and compliance was ordered on or before July 5, 2006, failing which a fine of \$250 per day, per violation shall accrue and to pay administrative costs in the amount of \$61.75 payable by the compliance date.

9) Case No:

06-00558

Code Compliance Officer

David Caban

Respondent:

Darlene McElhaney

638 Date Palm Drive

Lake Park, FL 33403

Location of Violation:

638 Date Palm Drive

PCN: 36-43-42-20-01-057-0100

Code Sections Violated:

7-95 Permits

Description of Violation:

No permit for A/C installation.

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated **3/15/2006**

and to approve the recommendation to achieve compliance by 7/06/2006 and failing which, a fine of \$100.00 a day shall accrue and to pay costs in the amount of \$157.50 by the date set for compliance.

David Caban, Code Compliance Officer, presented this case to the Magistrate and photos were entered into evidence.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent was in violation and compliance was ordered on or before July 6, 2006, failing which a fine of \$100 per day shall accrue and to pay administrative costs in the amount of \$157.50 payable by the compliance date.

10) Case No:

06-00556

Code Compliance Officer

David Caban

Respondent:

Yvonne Donaldson
829 Date Palm Drive
Lake Park, FL 33403

Location of Violation:

829 Date Palm Drive
PCN: 36-43-42-20-01-051-0350

Code Sections Violated:

7-102.(C)(1)(2) Roofs: Damaged roofing, fascias, eaves, soffit

Description of Violation:

Roof in Disrepair.

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated 3/15/2006 and to approve the recommendation to achieve compliance by 6/05/2006 and failing which, a fine of \$100.00 a day shall accrue and to pay costs in the amount of \$150.25 by the date set for compliance.

David Caban, Code Compliance Officer, presented this case to the Magistrate and photos were entered into evidence. Mr. Caban explained that the roof damage was not hurricane related.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent was in violation and compliance was ordered on or before June 5, 2006, failing which a fine of \$100 per day shall accrue and to pay administrative costs in the amount of \$150.25 payable by the compliance date.

12) Case No:

06-00677

Code Compliance Officer

David Caban

Respondent:

Esterline Jackson

855 Date Palm Drive

Lake Park, FL 33403

Location of Violation:

855 Date Palm Drive

PCN: 36-43-42-20-01-051-0250

Code Sections Violated:

32-71(a)(b) Fence/Wall Maintenance

Description of Violation:

Damaged, deteriorated and/or unmaintained fencing

Recommendation:

Respondent is in violation, as alleged in the NOV/NOH dated **4/04/2006** and to approve the recommendation to achieve compliance by **7/06/2006** and failing which, a fine of \$100.00 a day shall accrue and to pay costs in the amount of **\$140.00** by the date set for compliance.

David Caban, Code Compliance Officer, presented this case to the Magistrate and photos were entered into evidence.

FINDING: Based upon the evidence and testimony given, the Magistrate found the Respondent was in violation and compliance was ordered on or before July 6, 2006, failing which a fine of \$100 per day shall accrue and to pay administrative costs in the amount of \$140.00 payable by the compliance date.

VII. OTHER BUSINESS ITEMS


The Magistrate announced that the July 6, 2006, Special Magistrate Hearing will be rescheduled to July 13, 2006, as he will not be able to attend on July 6, 2006.

VIII. APPROVAL OF MINUTES

None

IX. ADJOURNMENT

The Special Magistrate Hearing was adjourned at 11:13 a.m.


Leonard Rubin, Magistrate

Attest:

Kimberly Rowley, Administrative Secretary

Approved on: 12/7/06